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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,961	04/12/2004	Mieko Matsuda	251577US2RD	2367
22850	7590	06/05/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER GOODEN JR, BARRY J	
			ART UNIT 3616	PAPER NUMBER
			NOTIFICATION DATE 06/05/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,961	<b>Applicant(s)</b> MATSUDA ET AL.	
	<b>Examiner</b> Barry J. Gooden Jr.	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 10-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-18 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13 and 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/27/06</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

This office action is in response to the amendment filed 2/28/07. Currently, claims 1-8 and 10-23 are pending. Claims 1, 2, 13, and 22 are amended. Claim 9 is cancelled.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-5, 7-13, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillebrand et al., US Patent 6,678,598.

With regards to claims 1-5 and 7-13, the limitation "a holding mechanism", does not provide a structure defining over the prior art. As the systems of the prior art are stationary during distance detecting operation, any structure maintaining the respective emitters and detectors, in relation to one another, would meet the limitation of "a holding mechanism".

In regards to claims 1-5, 7-13, and 22 Hillebrand et al discloses all of the claimed elements including a distance detecting apparatus for controlling an air bag system comprising:

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a light emitting unit that emits a light in a light emitting direction having a distributed pattern and being infrared;

a photographing device;

a holding mechanism;

the light emitting unit and photographing device being held in relation to one another such that:

a. the photographing direction is not in a plane that includes both the light emitting direction and the predetermined direction of the distributed pattern, and

b. the photographing direction is not parallel to the light emitting direction; and

a distance deriving unit;

wherein the light emitting unit emits an infrared light, and

the photographing device obtains an infrared image;

wherein the distance deriving unit derives a distance based on the image after the light emitting unit emits the light;

wherein the distance deriving unit further comprises an identifying unit that identifies a position of the distributed pattern of the light in the image by comparing a first image that is an image when the light emitting unit emits the light and a second image that is an image when the light emitting unit does not emit the light;

wherein the light emitting unit emits the light having a distributed pattern perpendicular to the light emitting direction;

further comprising:

a dividing unit (50) that divides the image into a plurality of regions; and

an identifying unit that identifies a position of the distributed pattern of light in the image by calculating an average of a high-luminance part in each of the regions;

wherein the distance deriving unit chooses, as the distance, a shortest one of a plurality of distance candidates depending on a position of the object, when the plurality of distance candidates are derived from the image (Reference is made to Column 8, lines 18-22);

wherein the light emitting unit emits light from a front side of the seat;

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wherein the distance deriving unit stores a relation between positions of the distributed pattern of the light in the image and distances, and derives the distance by referring to the relation stored;

wherein the distance deriving unit derives the distance based on a position of the distributed pattern of the light in the image, by extracting a high-luminance part of the image, and identifying whether the high-luminance part corresponds to the position of the distributed pattern of the light in the image;

a memory unit that stores a computer program that makes it possible to execute a function of deriving a distance between the object and a predetermined position based on a position of the distributed pattern of the light in the image obtained by the photographing device, and a function of controlling an operation of an air bag based on the distance derived; and

a processor that can access the memory unit and execute the computer program.

4. Claims 6 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillebrand et al. in view of Adachi, US Patent 6,572,139.

In regards to claim 6 and 19-21, Hillebrand et al. in view of the applicant's disclosure teaches all of the claimed elements excluding a discretely distributed pattern.

Adachi teaches of a discretely distributed pattern (Reference is made to Figure 12).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the distributed pattern of Hillebrand et al. in view of the teachings of Adachi to include being discretely distributed so as to provide a more accurate distance measurement.

#### ***Allowable Subject Matter***

5. Claims 14-18 and 23 allowed.

#### ***Response to Arguments***

6. Applicant's arguments filed 2/28/07 have been fully considered but they are not persuasive.

With respect to the applicant's argument of Hillebrand et al. examiner maintains the previous rejection is proper as Hillebrand et al. does disclose determining a distance by choosing a shortest one of

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a plurality of distance candidates (Reference is made to Figure 4a and Column 8, lines 18-22). The figure and column referenced clearly teach that a shortest distance from the airbag is used in determining the occupants distance from the airbag and whether to (or not to, as the case is in Figure 4a) deploy the airbag.

With respect to applicant's arguments of Hillebrand et al. in view of Adachi, examiner maintains the previous rejection is proper. The claimed elements of a memory unit, computer program, and processor are clearly disclosed by Hillebrand et al. in view of Adachi. Furthermore, claims 15, 17, and 18 contain elements not disclosed in claims 19-21 and as such the arguments are not commensurate with the claims.

#### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

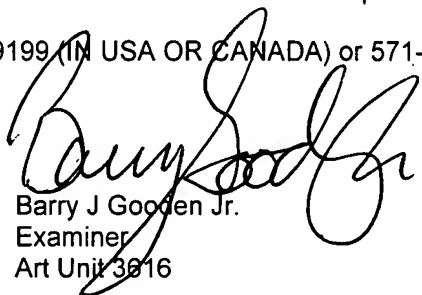
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry J. Gooden Jr. whose telephone number is (571) 272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 5/29/07  
Barry J Gooden Jr.  
Examiner  
Art Unit 3616

BJG

 5/29/07  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
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